

AGENDA MEMO

CITY COUNCIL MEETING DATE: OCTOBER 4, 2006

DEPARTMENT: PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: VAR-14273 - APPLICANT: KEN BALLARD - OWNER: CAROL E. MEYER

THIS ITEM WAS HELD IN ABEYANCE FROM THE SEPTEMBER 6, 2006 CITY COUNCIL MEETING AT THE REQUEST OF THE APPLICANT.

**** CONDITIONS ****

The Planning Commission (5-0 vote) and staff recommend DENIAL.

Planning and Development

1. Approval of and conformance to the Conditions of Approval for General Plan Amendment (GPA-14270) and Site Development Plan Review (SDR-14277) shall be required.
2. This approval shall be void two years from the date of final approval, unless a certificate of occupancy has been issued or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

**** STAFF REPORT ****

APPLICATION REQUEST

This is a request for a Variance to allow a residential adjacency setback of five feet in the side yard where an 81-foot setback is the minimum required and to allow a trash enclosure five feet from a protected property where 50 feet is the minimum separation required on 0.19 acres at the northeast corner of “H” Street and Byrnes Avenue.

EXECUTIVE SUMMARY

The proposed deviations are not considered appropriate. An alternative trash enclosure location could have less of an effect on the surrounding properties. It is noted that the 50-foot separation could still not be met. Additionally the deviation from setback requirements due to the 3:1 slope is considered self imposed. Denial of this Variance request is recommended.

BACKGROUND INFORMATION

A) Related Actions

- 07/27/06 The Planning Commission recommended denial of companion items VAR-14273 and SDR-14277 concurrently with this application.
- 07/27/06 The Planning Commission voted 5-0 to recommend DENIAL (PC Agenda Item #31/ng).

B) Pre-Application Meeting

- 06/01/06 A pre-application meeting was held and elements of this project were discussed.

C) Neighborhood Meetings

- 07/05/06 A neighborhood meeting was held at the Doolittle Community Center, 1950 “J” Street. The meeting began at 5:30 p.m. and concluded at 5:50 p.m. No members of the public were in attendance, one applicant representative and one city staff member were present.

DETAILS OF APPLICATION REQUEST

A) *Site Area*

Net Acres: 0.19

B) *Existing Land Use*

Subject Property: Undeveloped
North: Single-family Residential
South: Single-family Residential
Undeveloped
East: Single-family Residential
West: Apartments

C) *Planned Land Use*

Subject Property: L (Low Density Residential) [Proposed M (Medium Density Residential)]
North: L (Low Density Residential)
South: L (Low Density Residential)
SC (Service Commercial)
East: L (Low Density Residential)
West: ML (Medium Low Density Residential)

D) *Existing Zoning*

Subject Property: R-3 (Medium Density Residential)
North: R-1 (Single-family Residential)
South: R-1 (Single-family Residential)
C-1 (Limited Commercial)
East: R-1 (Single-family Residential)
West: R-3 (Medium Density Residential)

E) *General Plan Compliance*

The subject property is currently designated as L (Low Density Residential) under the Southeast Sector Plan of the General Plan. The Low Density Residential category permits single-family detached homes on individual lots. The L category permits up to 5.49 units per acre.

The applicant has requested a General Plan Amendment (GPA-14270) to M (Medium Density Residential) as part of this project. The Medium Density Residential category includes a variety of multi-family units such as plexes, townhouses, and low density apartments. The M category permits up to 25.49 units per acre. The proposed four-unit condominium project would be in conformance to the Medium Density Residential General Plan designation. It is noted that denial of this General Plan Amendment is recommended.

SPECIAL DISTRICTS/ZONES	Yes	No
Special Area Plan	X	
West Las Vegas Plan	X	
Special Overlay District	X	
Airport Overlay District	X	
Trails		X
Rural Preservation Neighborhood		X
Development Impact Notification Assessment		X
Project of Regional Significance		X

West Las Vegas Plan

The subject property is in the West Las Vegas Plan area. The subject parcel is not identified for any changes to the land use designation as part of the West Las Vegas Plan. The Plan indicates the need to protect the adjacent single-family residential uses.

Airport Overlay District

The subject property is located in the North Las Vegas Airport Overlay District 140-foot notification zone. The proposed structure is only two stories and approximately 27 feet in height and is not affected by this requirement.

ANALYSIS

A) Zoning Code Compliance

A1) Development Standards

Pursuant to Title 19.08, the following Development Standards apply to the subject proposal:

Standards	Required R-3	Requested	Compliance
Min. Lot Size	6,500 SF	8,448 SF	Y
Min. Setbacks			
• Front	20 Feet	20 Feet	Y
• Side	5 Feet	5 Feet	Y
• Corner	5 Feet	5 Feet	Y
• Rear	20 Feet	46 Feet	Y
Max. Building Height	2 Stories/35 Feet	2 Stories/26' 7"	Y
Trash Enclosure	50 Feet from a protected property	5 Feet from a protected property	N

The trash enclosure will be located in the northeast corner of the development and will be only five feet from a protected property. In this case the protected property is single-family residential development. A separation of 50-feet is required. This Variance (VAR-14273), if approved, is intended to permit this deviation from requirements.

A2) Residential Adjacency Standards

Pursuant to Title 19.08, the following Residential Adjacency Standards apply to the subject proposal:

- a) Proximity slope. Per the 3:1 slope requirements the proposed building has a height of 26 feet seven inches, which requires a setback of 81 feet from a single-family residential property. The proposed setback is only five feet in the side yard. This Variance (VAR-14273), if approved, is intended to permit this deviation from requirements.

B) General Analysis and Discussion

The trash enclosure is located five feet from a single-family property. This is deemed inappropriate as there will be a negative effect on the neighboring single-family property. It is noted that locating the trash enclosure fifty feet from adjacent property would not be possible on this parcel; however it would be possible to locate the enclosure further away than currently proposed. A location that would have less of an effect on neighboring properties is sought as a solution to this deviation.

The two story structure requires a separation from the neighboring single-family development at a rate of 3:1. The approximately 27-foot high building requires a setback of 81 feet from neighboring properties. This is not possible on this parcel as the parcel is approximately 65 feet in width. It is also noted that if this were a single-family dwelling the height would be permitted. The height of the building is not the primary concern. The use as a multi-family dwelling surrounded by single-family residential uses is not considered appropriate. This is a deviation from Code requirements and cannot be supported due to the non-compatibility with the neighborhood and additional deviations from standards.

FINDINGS

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.”

Additionally, Title 19.18.070L states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship through choosing to design this development as a two story dwelling. Alternative design as a single story unit would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site's physical characteristics, it is concluded that the applicant's hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED

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ASSEMBLY DISTRICT 6

SENATE DISTRICT 4

NOTICES MAILED 226 by City Clerk

APPROVALS 0

PROTESTS 0